

APPEAL NO. 020165
FILED FEBRUARY 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 14, 2001, with the record closing on December 19, 2001. The hearing officer resolved the disputed issue by deciding that the appellant (claimant) is not entitled to supplemental income benefits for the fifth quarter. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision and order have become final under Section 410.169 because the claimant's request for appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

Section 410.202(a) provides that "[t]o appeal the decision of a hearing officer, a party shall file a written request for appeal with the appeals panel not later than the 15th day after the date on which the decision of the hearing officer is received from the division and shall on the same date serve a copy of the request for appeal on the other party." Pursuant to Section 410.202(d), for appeals filed on or after June 17, 2001, Saturdays and Sundays and holidays listed in Section 662.003, Government Code, are not included in the computation of the time in which a request for appeal under subsection (a) or a response under subsection (b) must be filed. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that a request for appeal shall be presumed to be timely filed if it is (1) mailed on or before the 15th day after the date of receipt of the hearing officer's decision; and (2) received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be complied with in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994; Texas Workers' Compensation Commission Appeal No. 94111, decided March 10, 1994.

According to Commission records, the hearing officer's decision was mailed to the claimant on December 21, 2001. The claimant states in her appeal that she received the decision on December 28, 2001; however, pursuant to Rule 102.5(d) she was deemed to have received the decision on December 26, 2001. The claimant had until January 17, 2002, to mail the request for appeal to the Commission, which was the 15th day after the date of receipt, not including Saturdays and Sundays and holidays listed in Section 662.003 of the Government Code. The envelope in which the claimant's appeal was mailed to the Commission contains a USPS postage paid stamp dated January 19, 2002. Therefore, the claimant's appeal is not timely.

The hearing officer's decision and order have become final under Section 410.169.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Philip F. O'Neill
Appeals Judge

Edward Vilano
Appeals Judge